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OFFICE OF PETITIONS

In re Application of  
De Baetselier  
Application No. 09/596,101  
Filed: June 16, 2000  
Attorney Docket No. 4432US

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. § 1.137(b)," filed August 21, 2003.

The petition is GRANTED.

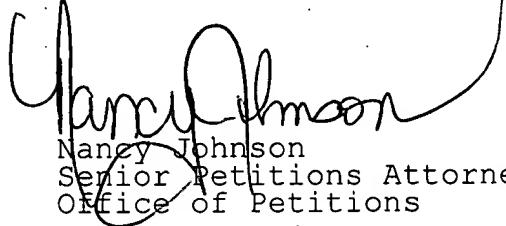
The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed April 9, 2002. An amendment had been filed on July 19, 2002 (along with an extension of time for response within the first month and extension fee); however, the amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed June 17, 2003). No proper reply having been filed and no further extension of time obtained, the application became abandoned effective August 10, 2002. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

An initial petition under § 1.137(b), filed October 31, 2002 was dismissed as moot (Decision mailed May 22, 2003). Because the examiner had not yet acted on the amendment filed July 19, 2002, as of the time of consideration of the petition, it had not yet been determined that the amendment was not a proper reply and thus, the application was abandoned. Rather than dismiss the petition as moot, the application file should have been forwarded to the examiner for such a determination.

Nonetheless, on instant renewed petition, petitioner filed the required reply in the form of a request for continuing examination under § 1.114 (RCE), with an amendment as the submission, and payment of the RCE fee. Petitioner has met all other requirements for a grantable petition under § 1.137(b).

The application file is being forwarded to Technology Center 1645 for consideration of the RCE and amendment by the examiner.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

  
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